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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIFTH APPELLATE DISTRICT**

THE PEOPLE,

Plaintiff and Respondent,

v.

MIONTE DARNELL MINNIEWEATHER,

Defendant and Appellant.

F077496

(Super. Ct. No. F18901263)

OPINION

THE COURT*

APPEAL from a judgment of the Superior Court of Fresno County. David Andrew Gottlieb, Judge.

Kendall D. Wasley, under appointment by the Court of Appeal, for Defendant and Appellant.

Office of the State Attorney General, Sacramento, California, for Plaintiff and Respondent.

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* Before Levy, Acting P.J., Franson, J. and Peña, J.

INTRODUCTION

Appellant Mionte Darnell Minniweather pled no contest to one count of violating Penal Code section 4573.5¹ and admitted a prior strike, in exchange for dismissal of another count and a stipulated 32-month sentence. He was sentenced in accordance with the plea agreement. Minniweather filed a notice of appeal and appellate counsel filed a brief pursuant to *People v. Wende* (1979) 25 Cal.3d 436. We affirm.

FACTUAL AND PROCEDURAL SUMMARY

The facts are taken from the probation report. On February 20, 2018, Minniweather recently had been booked into the Fresno County jail and an unclothed body search was being conducted on him. An object was protruding from his rectal cavity, which turned out to be a wad of tissue paper with marijuana inside.

A body scan revealed a second object inside Minniweather's pelvic area. Minniweather had to be taken to the hospital to have the object removed. It was 4.358 grams of marijuana.

On February 21, 2018, a felony complaint was filed against Minniweather charging him in count 1 with violating section 4573, bringing a controlled substance or paraphernalia into a jail or prison. Count 2 charged a violation of section 4573.5, bringing alcohol or drugs, other than a controlled substance, into a prison or jail. It also was alleged that Minniweather had suffered a prior juvenile adjudication for an offense that was a serious or violent felony and constituted a strike offense. Minniweather entered pleas of not guilty and denied the allegations.

On April 16, 2018, Minniweather initialed and signed a change of plea form, in which he agreed to plead no contest to count 2 and admit the prior strike offense, in exchange for an agreed upon 32-month sentence and dismissal of the remaining count. In

¹ All statutory references are to the Penal Code.

the plea form, Minniweather also waived his constitutional rights and affirmed he understood the consequences of his plea. Defense counsel signed the plea form, verifying that he had explained the form to his client and had reviewed with his client the elements of the offenses, possible defenses, and consequences of a plea.

At the change of plea hearing, the trial court verified that Minniweather had initialed and signed the change of plea form; had enough time to discuss the plea with his defense counsel; and understood the consequences of his plea. The trial court also informed Minniweather of his constitutional rights and accepted a waiver of those rights. The parties stipulated that the police reports provided a factual basis for the plea.

The trial court then proceeded to accept Minniweather's no contest plea to a violation of section 4573.5. Minniweather also admitted that he had a prior strike conviction. The trial court found that Minniweather had "expressly, knowingly, understandingly and intelligently waived his constitutional and statutory rights" and that the plea was "freely and voluntarily made."

The People moved to dismiss the remaining charge and the trial court granted the motion.

At the May 14, 2018, sentencing hearing, the trial court noted that the plea agreement called for a stipulated 32-month sentence. The low term of 16 months was imposed for the substantive offense, doubled to 32 months pursuant to section 667, subdivision (e)(1). The trial court awarded 84 days of actual credit and 84 days of conduct credit for a total of 168 days. Various fines and fees were imposed.

The abstract of judgment accurately sets forth the trial court's oral pronouncement of judgment. Minniweather filed a notice of appeal on May 14, 2018.

DISCUSSION

Minnieweather filed a notice of appeal stating he was appealing from the sentence or matters occurring after the plea that do not affect the plea. No certificate of probable cause was requested or granted.

Appellate counsel filed a brief pursuant to *People v. Wende, supra*, 25 Cal.3d 436 on September 12, 2018. That same day, this court issued its letter inviting Minnieweather to submit supplemental briefing. No supplemental brief was filed.

By entering a plea of no contest, Minnieweather admitted the sufficiency of the evidence establishing the section 4573.5 offense and the prior strike enhancement. Therefore, he is not entitled to a review of any issue concerning the question of his guilt of the underlying offenses. (*People v. Hunter* (2002) 100 Cal.App.4th 37, 42.)

Once a no contest plea is entered in exchange for specified benefits, both parties must abide by the agreement. (*People v. Segura* (2008) 44 Cal.4th 921, 929-930.) Minnieweather received the benefit of his plea bargain. The trial court imposed a sentence that was in accordance with the plea agreement. Having received the benefit of his bargain, he cannot “better the bargain through the appellate process.” (*People v. Hester* (2000) 22 Cal.4th 290, 295.)

After an independent review of the record, we find that no reasonably arguable factual or legal issues exist.

DISPOSITION

The judgment is affirmed.